

2. The Commission completed this investigation in the *Physical Collocation Investigation Final Order*.⁴ In that Order, the Commission ordered disallowances of several LECs' direct costs, and required LECs to revise or remove a number of their physical collocation terms and conditions. The Commission also required the LECs offering physical collocation service to submit plans for issuing appropriate refunds, and delegated authority to the Bureau to review those refund plans.⁵ The Commission explained that the refunds paid to physical collocation customers would be based on the difference between the LECs' actual physical collocation rates and the rates resulting from the Commission's disallowances, plus interest.⁶

3. The LECs' refund plans were submitted on July 28, 1997. Oppositions to those refund plans were due on August 4, 1997, and replies were due August 7, 1997.⁷ The Association for Local Telecommunications Services (ALTS) was the only party filing an opposition, and three parties filed replies.⁸ ALTS filed a letter clarifying its opposition on August 13, 1997.⁹ Several LECs have also revised their original rate calculations in the refund plans they filed on July 28. We find below that the LECs' rate calculations in their refund plans, as amended, accurately reflect the disallowances required by the *Physical Collocation Investigation Final Order*.

II. PLEADINGS

4. ALTS argues that it cannot comment on the refund plans at this time, because the plans do not include actual refund calculations.¹⁰ ALTS recommends requiring the LECs to submit computer disks containing spreadsheets containing the LECs' refund calculations to physical collocation

⁴ *Local Exchange Carriers' Rates, Terms, and Conditions for Expanded Interconnection Through Physical Collocation for Special Access and Switched Transport*, CC Docket No. 93-162, Second Report and Order, FCC 97-208 (released June 13, 1997) (*Physical Collocation Investigation Final Order*), recon. denied, FCC 97-367 (released Oct. 10, 1997).

⁵ *Physical Collocation Investigation Final Order* at paras. 389-95.

⁶ *Physical Collocation Investigation Final Order* at paras. 391-93.

⁷ *Local Exchange Carriers' Rates, Terms, and Conditions for Expanded Interconnection Through Physical Collocation for Special Access and Switched Transport, Schedule for Pleadings to be Submitted in Response to Compliance Filings*, CC Docket No. 93-162, Order, 12 FCC Rcd 10529 (Com. Car. Bur., Comp. Pricing Div., 1997) (*Scheduling Order*).

⁸ Those parties are the BellSouth Telecommunications, Inc. (BellSouth), the NYNEX Telephone Companies (NYNEX), and the Southwestern Bell Telephone Company (Southwestern Bell).

⁹ Letter from Richard J. Metzger, General Counsel, ALTS, to William F. Caton, Acting Secretary, FCC, August 13, 1997 (ALTS Letter).

¹⁰ ALTS Opposition at 1.

customers and to the Bureau.¹¹ Southwestern Bell argues that ALTS's proposal is an untimely petition for reconsideration of the refund plan requirement established in the *Physical Collocation Investigation Final Order*.¹²

5. NYNEX argues further that it is unnecessary to require LECs to supply computer disks to CAPs because the LECs and CAPs can resolve any disputes over refund amounts between themselves without Commission involvement.¹³ Southwestern Bell contends that the proper forum for objecting to the LECs' rate calculations would be the tariff review process, and that ALTS is improperly attempting to bypass that process.¹⁴ According to ALTS, NYNEX's and Southwestern Bell's interpretations of the refund process established in the *Physical Collocation Investigation Final Order* are inconsistent with each other, and with the Order. ALTS maintains that the refund reports required by the *Physical Collocation Investigation Final Order* should permit CAPs to confirm that each incumbent LEC has correctly implemented the refunds required by that Order.¹⁵

6. Southwestern Bell argues that ALTS's proposal would force LECs to disclose customer proprietary network information (CPNI) without those customers' permission.¹⁶ ALTS replies that it would obtain permission from CAPs prior to receiving any CPNI.¹⁷

III. DISCUSSION

7. Each LEC subject to the physical collocation tariff investigation submitted compliance filings that implement the methodology for calculating rates set forth in Appendix C of the *Physical Collocation Investigation Final Order*. These filings include each LEC's direct costs as displayed in their initial and revised Tariff Review Plans (TRPs), and the calculations supporting those direct costs. Each LEC's filing includes, for each rate element for which a disallowance was required: (1) the actual rate the LEC charged its customers; (2) the direct cost and overhead disallowances; and (3) the adjusted rates reflecting the direct cost and overhead disallowances. After reviewing these data, we conclude that the LECs' rate calculations in their refund reports, as amended, accurately reflect the disallowances required by the *Physical Collocation Investigation Final Order*.

¹¹ ALTS Opposition at 1-2. ALTS would exempt LECs with total refund liability of \$10,000 or less from its proposed requirement. ALTS Opposition at 2. BellSouth states that its total refund liability is \$8685.52. BellSouth Reply at 2. ALTS agrees that BellSouth's refund plan should be approved. ALTS Letter at 1.

¹² Southwestern Bell Reply at 1. See also NYNEX Reply at 1 ("ALTS is asking the Commission to establish a procedure that is not identified in the [*Physical Collocation Investigation Final Order*]").

¹³ NYNEX Reply at 1-2.

¹⁴ Southwestern Bell Reply at 2.

¹⁵ ALTS Letter at 2.

¹⁶ Southwestern Bell Reply at 2.

¹⁷ ALTS Letter at 1.

8. We reject ALTS's argument that LECs should be required to submit computer disks containing spreadsheets that include their refund calculations for each interconnector-customer that is entitled to over \$10,000 in refunds. Although the Commission provided instructions for refund calculations, such as interest at rates specified by the Internal Revenue Service, the Commission did not specifically direct LECs to submit to the Bureau the actual dollar amount for every physical collocation customer.¹⁸

9. Importantly, we find that the data filed by each LEC are sufficient to enable interconnectors to determine the refunds to which they are entitled. Each LEC's filing, for each rate element for which a disallowance was required, includes the actual physical collocation rate that was imposed on interconnector-customers, the required disallowances, and the adjusted physical collocation rates developed in compliance with the disallowances required in that Order.¹⁹ The only additional information an interconnector would need to calculate its refund would be its actual demand for each service the interconnector purchased from the LEC. We expect that the interconnectors, as a matter of normal business practice, would have this information in their records, so that they can easily calculate the actual dollar amount of the refunds to which they are entitled. In the event that a CAP believes that a LEC has not paid the correct refund amount, and the CAP and the incumbent LEC cannot resolve the dispute between themselves as NYNEX suggests, the Bureau will be available to resolve the dispute.²⁰

10. We also conclude, however, that we would impose little burden on the LECs by requiring them to provide interconnectors who are due refunds with the same information they have submitted to us, including all the revisions to their refund reports, compiled into a single spreadsheet. In addition, with the refund reports on computer disks, interconnectors will be spared the burden of entering all the information in those refund reports into their own computer spreadsheets, and this would facilitate the interconnectors' confirmation of the refunds to which they are entitled. Thus, this requirement would provide substantial benefits to interconnectors at little cost to LECs. Accordingly, we adopt ALTS's suggestion in part, in that we require LECs to provide computer spreadsheets to interconnectors. Specifically, we require each LEC within 30 days of the release of this Order, to give to interconnectors who are due refunds a computer spreadsheet on a disk including, for each rate element for which a disallowance was required: (1) the actual rate the LEC charged its customers; (2) the total of the required direct cost and overhead disallowances; (3) the adjusted rates reflecting the direct cost and overhead disallowances, as specified in their approved refund reports; and (4) applicable interest calculations.

¹⁸ *Physical Collocation Investigation Final Order* at paras. 391-93.

¹⁹ *Physical Collocation Investigation Final Order* at paras. 391-93.

²⁰ Because we are not requiring incumbent LECs to provide computer disks to CAPs, we need not resolve the CPNI issue raised by Southwestern Bell.

IV. ORDERING CLAUSES

11. Accordingly, IT IS ORDERED, that the opposition filed by the Association for Local Telecommunications Services IS GRANTED IN PART, and otherwise IS DENIED.

12. IT IS FURTHER ORDERED that the incumbent local exchange carriers identified in paragraphs 391, 392, and 393 of the *Physical Collocation Investigation Final Order* SHALL PROVIDE each of their physical collocation customers who are due refunds under this Order with a 3.5 inch computer disk containing a spreadsheet, no later than 30 days from the release date of this Order. This computer spreadsheet SHALL INCLUDE: (1) the actual rate the LEC charged its customers; (2) the direct cost and overhead disallowances; (3) the adjusted rates reflecting the direct cost and overhead disallowances, as specified in their approved refund reports; and (4) applicable interest calculations.

13. IT IS FURTHER ORDERED that the incumbent local exchange carriers identified in paragraphs 391, 392, and 393 of the *Physical Collocation Investigation Final Order* SHALL MAKE REFUNDS, no later than 30 days from the release date of this Order, in amounts calculated pursuant to the instructions specified in paragraphs 391, 392, and 393 of that Order, to their physical collocation customers.

FEDERAL COMMUNICATIONS COMMISSION



John Muleta
Acting Deputy Chief,
Common Carrier Bureau